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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,345	10/14/2005	Kenji Sakamoto	1248-0819PUS1	2094
2292 7590 05/30/2008 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER				
NGUYEN, HUY D				
ART UNIT		PAPER NUMBER		
2617				
NOTIFICATION DATE		DELIVERY MODE		
05/30/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary**Application No.**

10/553,345

Applicant(s)

SAKAMOTO, KENJI

Examiner

HUY D. NGUYEN

Art Unit

2617

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4 and 6-14 is/are rejected.
- 7) ☒ Claim(s) 3 and 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10/14/2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claim 13 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 13 is drawn to a “program” per se as recited in the preamble and as such is non-statutory subject matter. See MPEP § 2106.IV.B.1.a. Data structures not claimed as embodied in computer readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer. See, e.g., *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention, which permit the data structure's functionality to be realized. In contrast, a claimed computer readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory. Similarly, computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs are not physical “things.” They are neither computer components nor statutory processes, as they are not “acts” being performed. Such claimed computer programs do not define any structural and functional interrelationships

between the computer program and other claimed elements of a computer, which permit the computer program's functionality to be realized.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, 4, 7-12, 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Salazar et al. (U.S. Patent No. 5,802,467).

5. Regarding claims 1-2, 8-12, 14, Salazar et al. teaches a wireless control system comprising a controlling device (e.g., handset 10, see fig. 1b) and controlled devices (e.g., devices 2-9, 11, see fig. 1b) that are wirelessly controlled by the controlling device, wherein the controlling device wirelessly (e.g., rf or ir, see fig. 1b) generates and transmits control data to the controlled devices, the control data including (i) a control command and (ii) a discrimination code (e.g., command code set) for discriminating which of the controlled device in the system the control command is for (see column 9, lines 41-47), and the controlled devices receive the wirelessly transmitted control data from the controlling device, read out the discrimination code (e.g., inherently) included in the control data, and discriminating which of the controlled device (e.g., channel selector, volume controller, power switch, see column 7, lines 40-50) in the system the control command is for (e.g., channel up, channel down, volume up, volume down, power on , power off,... , see column 7, lines 40-50) the control data, being transmitted to a controlled

device discriminated by the discrimination section (see column 7, lines 40-50; column 9, lines 41-47).

Regarding claim 4, Salazar et al. teaches the wireless control system as set forth in claim 2, wherein control data generated in the control data generating section is any one of control data (e.g., The microprocessor instruction set and data is stored in microprocessor 30, see column 7, lines 4-5) to be transmitted to a control section included in the controlling device, control data to be transmitted to the wireless communication section (e.g., control data is transmitted to the transmitter of the handset 10 in order to transmit to the devices 2-9, see fig. 1b and 3) in the controlling device, control data to be transmitted to a control section included in the controlled devices, and control data to be transmitted to the wireless communication section in the controlled devices.

Regarding claim 7, Salazar et al. teaches the wireless control system as set forth in claim 2, wherein the wireless communication section performs low power, close range, two-way wireless communication such as a wireless LAN (see fig. 1b).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Salazar et al. in view of Yuen (US 2002/0098834 A1).

Regarding claim 6, Salazar et al. teaches the claimed invention except the use of spread spectrum wireless system. The preceding limitation is taught in Yuen (e.g., The RF link may be implemented as a 900 MHz Digital Spread Spectrum communication path, see paragraph 0030). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use spread spectrum as taught by Yuen to implement the RF link taught in Salazar et al. in order to improve interference rejection since the spread signal has a greater bandwidth than the original message and is less likely to interfere with other signals.

Allowable Subject Matter

8. Claims 3 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant's arguments filed 2/6/2008 have been fully considered but they are not persuasive.

Regarding claims 1-2, 8-12, the applicant submitted that Salazar does not teach the control data including a control command and a discrimination code for discriminating which of the controlled devices in the system the control command is for. The examiner responds that Salazar teaches a handset 10 which can wirelessly control the controlled devices (e.g., channel selector, volume controller, power switch, see column 7, lines 40-50) to adjust/change the controlled devices' states (e.g., channel up, channel down, volume up, volume down, power on ,

power off,...). It is inherent that there are discrimination codes/signals to discriminate, for example, the channel selector from the volume controller or the power switch and there are commands to adjust/change the channel selector, volume controller, power switch.

Contact Information

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY D. NGUYEN whose telephone number is (571)272-7845. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost can be reached on 571-272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Huy D Nguyen/
Examiner, Art Unit 2617